

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

CELSA M. ORTIZ-ALFARO

Plaintiff

vs

CIVIL 96-2433CCC

SISTEMA UNIVERSITARIO ANA G.
MENDEZ

Defendant

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CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, P.R.

ORDER TO SHOW CAUSE

On July 14, 1999 the Court entered an order (see docket entry 62) finding that the recorded statements made by deceased plaintiff Celsa M. Ortiz-Alfaro were inadmissible as evidence under the hearsay exclusion of Fed.R.Civ.P. 802. The motion stated that, "it would be very perilous for plaintiff to proceed to trial because the essence of its claim is supported by the testimony contained in the two audio-tapes prepared by Celsa M. Ortiz-Alfaro." Prior to this plaintiff in her Motion for Preliminary Determination of Admissibility (**docket entry 42**), stated: "Plaintiff recognizes that this action has slim chances of prevailing without the testimony of Celsa Ortiz" (p.1) and that "the statements constitute the mainstay of plaintiff's case" (p.9).

The Pretrial Order also reveals that much of the remaining evidence is testimony of people who rendered assistance to the deceased while she was teaching at the university. It is unclear as to how much of that is hearsay testimony about what Ortiz-Alfaro told them, which would not be admissible for the truth of the factual matters contained in the statements.

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Accordingly, the plaintiffs are ORDERED to file ex-parte, sealed proffer in detailed from of each of the witnesses who will testify at trial. A term of thirty-five (35) days after notice is granted to comply. Failure to do so will result in dismissal of the complaint.

SO ORDERED.

At San Juan, Puerto Rico, on September 15, 1999.


CARMEN CONSUELO CEREZO
United States District Judge

s/c M. Correa
W. Heigel

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